

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2082**

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**Introduced by Committee on Education (Brownley (Chair),  
Nestande (Vice Chair), Ammiano, Arambula, Buchanan, Carter,  
Eng, Solorio, and Torlakson)**

February 18, 2010

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An act to add ~~Section 17562.5 to~~ *Sections 41344.11, 41344.12, and 41344.13 to the Education Code, and to amend Section 17559 of, and to add Sections 17562.5 and 17579.5 to, the Government Code*, relating to local educational agencies.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2082, as amended, Committee on Education. Local educational agencies: reimbursable state mandates.

**Existing**

(1) *Existing* law establishes a procedure for local governmental agencies to file, with the Commission on State Mandates (*commission*), claims for reimbursement of specified costs associated with state-mandated local programs, and sets forth the procedure for a determination by the commission for eligibility for reimbursement, appropriation, and payment of claims, including payment pursuant to the enactment of a local government claims bill, the establishment of interest accrued on claims, and the review of state mandates by the Legislative Analyst generally.

This bill would express the intent of the Legislature that statutes creating a reimbursable state mandate on school districts be periodically reviewed, and that the Legislature consider recommendations on whether those statutes should be amended, repealed, or remain unchanged. The

bill would require that, in addition to a report submitted pursuant to existing law, the Legislative Analyst review and report on each reimbursable state mandate relating to local educational agencies that meets prescribed criteria. The bill would specify the information to be provided in the review and report, and would require that the review and report be provided to the chairpersons of the Assembly Committee on Education, the Senate Committee on Education, and the fiscal committees of the Assembly and the Senate, on or before the January 1 following the adjournment of the regular session of the Legislature for which the review was made.

(2) *Existing law authorizes a local agency claimant to file with the commission an incorrect reduction claim pursuant to regulations adopted by the commission if the Controller reduces a state mandate reimbursement claim approved by the commission. Existing law authorizes a local agency claimant that is eligible to file an incorrect reduction claim to file a consolidated incorrect reduction claim on behalf of other local agency claimants whose claims for reimbursement under the same mandate are alleged to have been incorrectly reduced if specified conditions apply. Existing law also authorizes the commission, on its own initiative, to consolidate incorrect reduction claims filed with the commission by different claimants under the same mandate if specified conditions apply.*

*This bill, commencing with the 2011–12 fiscal year, instead would authorize a local educational agency to file an incorrect reduction claim as an appeal with the Education Audit Appeals Panel (panel) and would specify deadlines for the filing and hearing. The bill would authorize the consolidation of these appeals and would authorize the panel to adopt regulations necessary to establish procedures for receiving or consolidating appeals and for providing a hearing on a consolidated appeal. The bill would require the commission, by July 1, 2011, to transfer all pending incorrect reduction claims filed on or before June 30, 2011, by a local educational agency and all documentation and commission working papers related to those claims to the panel. The bill would deem any incorrect reduction claim transferred pursuant to the bill to have been appealed to the panel and would require the panel to hold a hearing on or before specified dates, as applicable.*

(3) *Existing law authorizes the commission to order a reconsideration of all or part of a test claim or incorrect reduction claim on petition of any party.*

*This bill, commencing with the 2011–12 fiscal year, would prohibit the commission from ordering a reconsideration of all or part of any incorrect reduction claim that is eligible to be filed with the panel pursuant to a specified provision of the bill described in (2) above.*

*(4) Existing law requires the Legislative Counsel, when a bill is introduced in the Legislature, and each time a bill is amended, to determine whether the bill mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution. Existing law requires that any bill introduced or amended for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution contain a section specifying that reimbursement shall be made pursuant to specified statutory provisions or that the mandate is being disclaimed and the reason therefor.*

*This bill would require that a bill that would impose a state-mandated local program on a local educational agency, as determined by the Legislative Counsel Bureau, include a provision that repeals the state-mandated local program, or makes the requirement inoperative, no later than a date 5 years following the date upon which the bill, as enacted, becomes operative. The bill would require the Legislative Counsel, to include that provision in the bill unless the person requesting the bill or amendment directs the Legislative Counsel to do otherwise.*

*Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.*

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 41344.11 is added to the Education Code,  
2     to read:  
3     41344.11. (a) Notwithstanding Sections 17558.7 and 17558.8  
4     of the Government Code, commencing with the 2011–12 fiscal  
5     year, a local educational agency may file an incorrect reduction  
6     claim as an appeal with the Education Audit Appeals Panel in  
7     accordance with Section 41344.1 within 60 days of the date on  
8     which the Controller notifies the local educational agency that a  
9     mandate reimbursement claim filed by that local educational  
10    agency has been adjusted to reduce the overall reimbursement.  
11    The panel shall conduct a hearing within 90 days of the date on  
12    which it receives the appeal. A local educational agency may  
13    present evidence or arguments at the hearing if the agency asserts

1 *that the Controller's notice contains any finding that was based*  
2 *on errors of fact or interpretation of law, or if the agency asserts*  
3 *in good faith that it was in substantial compliance with all legal*  
4 *requirements. If the panel determines that the agency is correct*  
5 *in its assertion, in whole or in part, the panel shall inform the*  
6 *Controller of its determination, and the Controller shall adjust*  
7 *the agency's claim accordingly.*

8 *(b) For the purposes of applying subdivision (c) of Section*  
9 *41344.1 to an appeal filed pursuant to subdivision (a), "substantial*  
10 *compliance" means nearly complete adherence to all elements of*  
11 *the parameters and guidelines adopted for that mandate claim by*  
12 *the Commission on State Mandates and to all elements of the*  
13 *claiming instructions for that mandate claim issued by the*  
14 *Controller.*

15 *(c) Notwithstanding any other provision of law, this section may*  
16 *not be waived pursuant to any provision of this code, except as*  
17 *provided in this section or Section 41344.1.*

18 *(d) For purposes of this section, "local educational agency"*  
19 *does not include a community college district.*

20 *SEC. 2. Section 41344.12 is added to the Education Code, to*  
21 *read:*

22 *41344.12. (a) A local educational agency filing an incorrect*  
23 *reduction claim as an appeal with the Education Audit Appeals*  
24 *Panel pursuant to Section 41344.11 may file a consolidated appeal*  
25 *on behalf of other local educational agencies whose claims for*  
26 *reimbursement under the same mandate are alleged to have been*  
27 *incorrectly reduced if all of the following apply:*

28 *(1) The method, act, or practice that the local educational*  
29 *agency alleges led to the reduction has led to similar reductions*  
30 *of other parties' claims, and all of the claims involve common*  
31 *questions of law or fact.*

32 *(2) The common questions of law or fact among the claims*  
33 *predominate over any matter affecting only an individual claim.*

34 *(3) The consolidation of similar claims by individual local*  
35 *educational agencies would result in consistent decisionmaking*  
36 *by the Education Audit Appeals Panel.*

37 *(4) The local educational agency filing the consolidated appeal*  
38 *would fairly and adequately protect the interests of the other local*  
39 *educational agencies.*

1     ***(b) If a local educational agency intends to file a consolidated***  
2 ***appeal pursuant to this section, the agency shall notify the***  
3 ***Education Audit Appeals Panel of its intent on a form provided***  
4 ***by the panel at the time it files its incorrect reduction claim and***  
5 ***appeal.***

6     ***(c) Within 10 days after receipt of a notice of intent to***  
7 ***consolidate, the Education Audit Appeals Panel shall request that***  
8 ***the Controller provide the panel and the local educational agency***  
9 ***with a list of local educational agencies for whom the Controller***  
10 ***has reduced similar claims under the same mandate. Upon receipt***  
11 ***of this list from the Controller, the local educational agency may***  
12 ***notify other local educational agencies on the list and other***  
13 ***interested parties of its intent to file a consolidated appeal.***

14     ***(d) Within 30 days of receipt of the notice of intent to consolidate***  
15 ***from the original local educational agency, any other eligible local***  
16 ***educational agency shall file with the Education Audit Appeals***  
17 ***Panel its notice of intent, on a form provided by the panel, to join***  
18 ***the consolidated appeal. The notice of intent shall include a copy***  
19 ***of the remittance advice or other notice from the Controller of the***  
20 ***claim reduction and one copy of the reimbursement claims for***  
21 ***which an incorrect reduction is alleged.***

22     ***(e) The Education Audit Appeals Panel shall notify each local***  
23 ***educational agency that files an intent to join the consolidated***  
24 ***appeal that it may opt out of the consolidated appeal and not be***  
25 ***bound by any determination made on that consolidated appeal. A***  
26 ***local educational agency may opt out of a consolidated appeal no***  
27 ***later than 15 days prior to the initial hearing on the consolidated***  
28 ***appeal. A local educational agency that opts out of the consolidated***  
29 ***appeal, in order to preserve its right to challenge a reduction made***  
30 ***by the Controller on that same mandate, shall file an individual***  
31 ***incorrect reduction claim as an appeal pursuant to Section***  
32 ***41344.11 no later than 30 days after opting out.***

33     ***(f) The Education Audit Appeals Panel, on its own initiative,***  
34 ***may consolidate incorrect reduction claims and appeals filed with***  
35 ***the panel by different local educational agencies under the same***  
36 ***mandate if each of the conditions specified in paragraphs (1) to***  
37 ***(3), inclusive, of subdivision (a) applies.***

38     ***(g) The Education Audit Appeals Panel may adopt regulations***  
39 ***necessary to establish procedures for receiving a consolidated***

1 *appeal or for consolidating appeals pursuant to this section, and*  
2 *for providing a hearing on a consolidated appeal.*

3 *(h) For purposes of this section, “local educational agency”*  
4 *does not include a community college district.*

5 *SEC. 3. Section 41344.13 is added to the Education Code, to*  
6 *read:*

7 *41344.13. (a) By July 1, 2011, the Commission on State*  
8 *Mandates shall transfer all pending incorrect reduction claims*  
9 *filed on or before June 30, 2011, by a local educational agency*  
10 *and all documentation and commission working papers related to*  
11 *those claims to the Education Audit Appeals Panel.*

12 *(b) Any incorrect reduction claim transferred pursuant to*  
13 *subdivision (a) shall be deemed to have been appealed to the*  
14 *Education Audit Appeals Panel, and the panel shall hold a hearing*  
15 *pursuant to Section 41344.11 on or before the following dates:*

16 *(1) June 30, 2011, for incorrect reduction claims filed prior to*  
17 *January 1, 2005.*

18 *(2) June 30, 2012, for incorrect reduction claims filed on or*  
19 *after January 1, 2005, and prior to January 1, 2007.*

20 *(3) June 30, 2013, for incorrect reduction claims filed on or*  
21 *after January 1, 2007, and prior to January 1, 2008.*

22 *(4) June 30, 2014, for incorrect reduction claims filed on or*  
23 *after January 1, 2008, and prior to July 1, 2011.*

24 *(c) For purposes of this section, “local educational agency”*  
25 *does not include a community college district.*

26 *SEC. 4. Section 17559 of the Government Code is amended to*  
27 *read:*

28 *17559. (a) The commission may order a reconsideration of all*  
29 *or part of a test claim or incorrect reduction claim on petition of*  
30 *any party. The power to order a reconsideration or amend a test*  
31 *claim decision shall expire 30 days after the statement of decision*  
32 *is delivered or mailed to the claimant. If additional time is needed*  
33 *to evaluate a petition for reconsideration filed prior to the expiration*  
34 *of the 30-day period, the commission may grant a stay of that*  
35 *expiration for no more than 30 days, solely for the purpose of*  
36 *considering the petition. If no action is taken on a petition within*  
37 *the time allowed for ordering reconsideration, the petition shall*  
38 *be deemed denied.*

39 *(b) A claimant or the state may commence a proceeding in*  
40 *accordance with the provisions of Section 1094.5 of the Code of*

1 Civil Procedure to set aside a decision of the commission on the  
2 ground that the commission's decision is not supported by  
3 substantial evidence. The court may order the commission to hold  
4 another hearing regarding the claim and may direct the commission  
5 on what basis the claim is to receive a rehearing.

6 *(c) Commencing with the 2011–12 fiscal year, the commission*  
7 *shall not order a reconsideration of all or part of any incorrect*  
8 *reduction claim that is eligible to be filed with the Education Audit*  
9 *Appeals Panel pursuant to Section 41344.11 of the Education*  
10 *Code.*

11 **SECTION 1.**

12 **SEC. 5.** Section 17562.5 is added to the Government Code, to  
13 read:

14 17562.5. (a) It is the intent of the Legislature that statutes  
15 creating a reimbursable state mandate on local educational agencies  
16 be periodically reviewed, and that the Legislature consider  
17 recommendations on whether those statutes should be amended,  
18 repealed, or remain unchanged.

19 (b) In addition to the report submitted pursuant to subdivision  
20 (c) of Section 17562, at least once in each regular session of the  
21 Legislature, the Legislative Analyst shall review and report on  
22 each reimbursable state mandate relating to local educational  
23 agencies that meets each of the following criteria:

24 (1) Pursuant to Section 17551, the Commission on State  
25 Mandates has determined the existence of a reimbursable  
26 state-mandated program.

27 (2) A claim for reimbursement has been filed with the Controller  
28 by a school district, county office of education, or other eligible  
29 local educational agency.

30 (3) The Legislature has not provided an appropriation to fully  
31 fund current and pending claims for reimbursement filed with the  
32 Controller.

33 (c) The review and report prepared by the Legislative Analyst  
34 pursuant to subdivision (b) shall:

35 (1) Include all of the following for each mandate:

36 (A) A summary and its statutory source.

37 (B) Fiscal information, including, but not necessarily limited  
38 to, the claims paid to date, unpaid claims, pending claims, and the  
39 history of appropriations for the mandate.

1 (C) Recommendations as to whether the mandate should be  
2 amended, repealed, or remain unchanged.

3 (2) Be provided to the chairpersons of the Assembly Committee  
4 on Education, the Senate Committee on Education, and the fiscal  
5 committees of the Assembly and the Senate, on or before the  
6 January 1 following the adjournment of the regular session of the  
7 Legislature for which the review was made.

8 *SEC. 6. Section 17579.5 is added to the Government Code, to*  
9 *read:*

10 *17579.5. (a) A bill that, as introduced or amended in either*  
11 *house of the Legislature, would impose a state-mandated local*  
12 *program on a local educational agency, as determined by the*  
13 *Legislative Counsel Bureau pursuant to Section 17575, shall*  
14 *include a provision that repeals the state-mandated local program,*  
15 *or makes the requirement inoperative, no later than a date five*  
16 *years following the date upon which the bill, as enacted, becomes*  
17 *operative.*

18 *(b) The Legislative Counsel, in drafting a bill for introduction*  
19 *or an amendment to a bill that would impose a state-mandated*  
20 *local program on a local educational agency, as described in*  
21 *subdivision (a), shall include a provision that repeals the*  
22 *state-mandated local program on a local educational agency, or*  
23 *makes the requirement inoperative, five years after the date on*  
24 *which the requirement becomes operative, unless the person*  
25 *requesting the bill or amendment directs the Legislative Counsel*  
26 *to do otherwise.*